

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BURLINGTON INSURANCE CO.,

Plaintiff,

vs.

GREATER PERSHING PARTNERSHIP et al.,

Defendants.

2:10-cv-01623-RCJ-GWF

ORDER

This case arises out of injuries sustained by non-parties from a falling tree branch and the question of an insurance company's duty to defend or indemnify five Defendants in the resulting state court tort action. The Court has granted a motion for offensive summary judgment against all Defendants, as well as Plaintiff's motion for default judgment against Defendant Greater Pershing Partnership.

Plaintiff has asked the Court to amend the judgment to include a declaration that it owed no duty to defend or indemnify its insured in the underlying state court suit. No Defendant has timely responded to the motion. The Court included the requested declarations in its findings of fact and conclusions of law in the previous order but will amend the judgment itself to so reflect. Plaintiff has also asked the Court to transfer the case to the unofficial northern division because the action arose there and should have been filed there initially. The Court denies this request. The case is already assigned to a judge sitting in Reno, and any hearings can be held in Reno if more convenient for the parties. Formal reassignment of the already-closed case would simply work confusion by likely resulting in reassignment to a new judge.

1 **CONCLUSION**

2 IT IS HEREBY ORDERED that the Motion to Correct Judgment (ECF No. 33) is
3 GRANTED.

4 IT IS FURTHER ORDERED that the Clerk shall amend the Judgment to include the
5 following language:

6 1. Pershing County, Roger Mancebo, Dave Ayoob, and Darin Bloyd are not insureds
7 under the written insurance contract between The Burlington Insurance Company and Greater
8 Pershing Partnership, number 011B005866, effective December 1, 2007 to December 1, 2008.

9 2. The Burlington Insurance Company never had, and does not now have, any duty to
10 defend Pershing County, Roger Mancebo, Dave Ayoob, and/or Darin Bloyd in the action entitled
11 *Virginia Rose and Kirsten Hertz v. Pershing County et. al.* in the Sixth Judicial District Court of
12 the State of Nevada for Pershing County, Case No. CV09-10800.

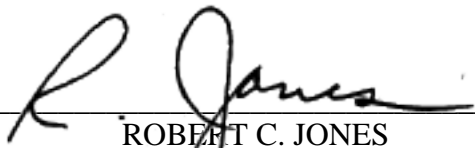
13 3. The Burlington Insurance Company does not have, and never will have, any duty to
14 indemnify Pershing County, Roger Mancebo, Dave Ayoob, and/or Darin Bloyd in connection
15 with the action entitled *Virginia Rose and Kirsten Hertz v. Pershing County et. al.* in the Sixth
16 Judicial District Court of the State of Nevada for Pershing County, Case No. CV09-10800.

17 IT IS FURTHER ORDERED that the Motion to Transfer (ECF No. 34) is DENIED.

18 IT IS FURTHER ORDERED that the hearing set for ECF Nos. 33 and 34 on May 24,
19 2012 is VACATED.

20 IT IS SO ORDERED.

21 Dated this 13th day of March, 2012.

22
23 
24 ROBERT C. JONES
25 United States District Judge